

#### § 322.4

#### 8 CFR Ch. I (1–1–08 Edition)

and the appropriate fee as required in § 103.7(b)(1) of this chapter, an applicant must submit the following required documents unless such documents are already contained in the Service administrative file(s):

(i) The child's birth certificate or record;

(ii) Marriage certificate of child's parents (if applicable);

(iii) If the child's parents were married before their marriage to each other, proof of termination of any previous marriage of each parent (e.g., death certificate or divorce decree);

(iv) Evidence of U.S. citizenship of parent (i.e., birth certificate; naturalization certificate; FS-240, Report of Birth Abroad; a valid unexpired U.S. passport; or certificate of citizenship);

(v) If the child was born out of wedlock, documents verifying legitimation according to the laws of the child's residence or domicile or father's residence or domicile (if applicable);

(vi) In case of divorce, legal separation, or adoption, documentation of legal custody (if applicable);

(vii) Documentation establishing that the U.S. citizen parent or U.S. citizen grandparent meets the required physical presence requirements (e.g., school records, military records, utility bills, medical records, deeds, mortgages, contracts, insurance policies, receipts, or attestations by churches, unions, or other organizations);

(viii) Evidence that the child is present in the United States pursuant to a lawful admission and is maintaining such lawful status (e.g., Form I-94, Arrival/Departure Record) (in certain circumstances, this evidence may be presented at the time of interview);

(ix) If adopted, a copy of a full, final adoption decree;

(x) For adopted children (not orphans) applying under section 322 of the Act, evidence that they satisfy the requirements of section 101(b)(1)(E);

(xi) For adopted orphans applying under section 322 of the Act, a copy of notice of approval of a Form I-600 Petition to Classify Orphan as an Immediate Relative, and supporting documentation for such form (except the home study);

(xii) For a Convention adoptee applying under section 322 of the Act, a copy

of the notice of approval of the Form I-800 and the supporting documents submitted with the Form I-800 (except the home study); and

(xiii) Evidence of all legal name changes, if applicable, for child, U.S. citizen parent, or U.S. citizen grandparent.

(2) If the Service requires any additional documentation to make a decision on the Form N-600 or N-643, parents may be asked to provide that documentation under separate cover or at the time of interview. Parents do not need to submit documents that were submitted in connection with: An application for immigrant visa and retained by the American Consulate for inclusion in the immigrant visa package, or another immigrant petition or application and included in a Service administrative file. Parents should indicate that they wish to rely on such documents and identify the administrative file(s) by name and alien number. The Service will only request the required documentation again if necessary.

[66 FR 32144, June 13, 2001, as amended at 72 FR 56867, Oct. 4, 2007]

#### **§ 322.4 Who must appear for an interview on the application for citizenship?**

The U.S. citizen parent and the child shall appear in person before a Service officer for examination on the application for certificate of citizenship.

#### **§ 322.5 What happens if the application is approved or denied by the Service?**

(a) *Approval of application.* If the application for certificate of citizenship is approved, after the applicant takes the oath of allegiance prescribed in 8 CFR part 337, unless the oath is waived, the Service will issue a certificate of citizenship. The child is a citizen as of the date of approval and administration of the oath of allegiance.

(b) *Denial of application.* If the decision of the district director is to deny the application for a certificate of citizenship under this section, the applicant shall be furnished with the reasons for denial and advised of the right to appeal in accordance with the provisions of 8 CFR 103.3(a). An applicant

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may file an appeal on Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), with the required fee prescribed in § 103.7(b)(1) of this chapter, in accordance with the instructions therein and with any supporting documentation addressing the reasons for denial. To be timely filed, an appeal must be filed within 30 days of service of the decision. After an application for a certificate of citizenship has been denied and the time for appeal has expired, a second application submitted by the same individual shall be rejected and the applicant will be instructed to submit a motion for reopening or reconsideration in accordance with 8 CFR 103.5. The motion shall be accompanied by the rejected application and the fee specified in 8 CFR 103.7. A decision shall be issued with notification of appeal rights in all certificate of citizenship cases, including any case denied due to the applicant's failure to prosecute the application.

### **PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE AND FORMER CITIZENS WHOSE NATURALIZATION IS AUTHORIZED BY PRIVATE LAW**

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324.1 Definitions.

324.2 Former citizen at birth or by naturalization.

324.3 Women, citizens of the United States at birth, who lost or are believed to have lost citizenship by marriage and whose marriage has terminated.

324.4 Women restored to United States citizenship by the act of June 25, 1936, as amended by the act of July 2, 1940.

324.5 Former citizen of the United States whose naturalization by taking the oath is authorized by a private law.

AUTHORITY: 8 U.S.C. 1103, 1435, 1443, 1448, 1101 note.

#### **§ 324.1 Definitions.**

As used in this part:

*Oath* means the Oath of Allegiance as prescribed in section 337 of the Act.

[56 FR 50490, Oct. 7, 1991]

#### **§ 324.2 Former citizen at birth or by naturalization.**

(a) *Eligibility.* To be eligible for naturalization under section 324(a) of the Act, an applicant must establish that she:

(1) Was formerly a United States citizen;

(2) Lost or may have lost United States citizenship;

(i) Prior to September 22, 1922, by marriage to an alien, or by the loss of United States citizenship of the applicant's spouse; or

(ii) On or after September 22, 1922, by marriage before March 3, 1931 to an alien ineligible to citizenship;

(3) Did not acquire any other nationality by affirmative act other than by marriage;

(4) Either:

(i) Has resided in the United States continuously since the date of the marriage referred to in paragraph (a)(2) of this section; or

(ii) Has been lawfully admitted for permanent residence prior to filing an application for naturalization;

(5) Has been and is a person of good moral character, attached to the principles of the Constitution of the United States, and favorably disposed toward the good order and happiness of the United States, for the period of not less than five years immediately preceding the examination on the application for naturalization up to the time of admission to citizenship; and

(6) Complies with all other requirements for naturalization as provided in part 316 of this chapter, except that:

(i) The applicant is not required to satisfy the residence requirements under § 316.2(a)(3) through (a)(6) of this chapter; and,

(ii) The applicant need not set forth an intention to reside permanently within the United States.

(b) *Application.* An applicant for naturalization under this section must submit an application on Form N-400, as required by § 316.4 of this chapter. The application must be accompanied by a statement describing the applicant's eligibility as provided in paragraph (a) of this section as well as any available documentation to establish those facts. An application under this section shall be filed with the Service office having